

39 HUNT (E.M.)

PROFESSIONAL ETHICS.

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AN ESSAY

READ BEFORE THE

MEDICAL SOCIETY OF NEW JERSEY,

AT THE

ANNUAL MEETING, MAY 27, 1873,

BY

EZRA M. HUNT, M. D.



NEWARK. N. J.:

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by J. Shwach  
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## PROFESSIONAL ETHICS.

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Periods of intense inquiry or of actual progress in any department of learning, always give rise to ethical discussions as well; and amid our scientific investigations it may be proper, also, to examine a little into what should be the present ethical status of the medical profession.

The word ethics itself, at the outset of such a discussion, deserves examination in order that we may the better appreciate it, in its application to a special profession. It is well to remember, that both in derivation and in actual significance it is a synonym with the word from which our term "morals" is derived, and not only philologically but practically the two are intimately associated. The idea which first of all must be the ply into which professional conduct is interwoven is, that ethics has its foundation not in a set of arbitrary rules, but in a moral sentiment; in that principle which comprehends conduct to be an outgrowth of character; in that morality which is defined to be "the customary rule of right and duty between man and man," and so has to do with human actions as "virtuous or vicious, right or wrong." So, whether we use the Greek word "ethics," the Latin "morals," or the English "customs" or "manners," it signifies that bearing which is rightly due from one man toward another.

There are, therefore, to us, two departments of ethics: First, that which inheres to us as men, as gentlemen, independent of any professional relation; and second, that which

relates to us by virtue of our profession, and the special questions it suggests, and the special duties it involves.

As to the first, that which relates to us as men, independent of our profession, we have here but little to say. We only know that the ethics of the true gentleman must be something deeper than the mere culture of society, however desirable that may be. It must have its basis in a perception of what is right and due between man and man, in that unselfishness which ever strives to weigh another's rights in the same balances by which we would adjust our own, and which, seeking after right feeling and right judgment, knows how to recognize and exhibit due consideration for others as well as for ourselves. 'Tis true, this of itself is one of the highest attainments, both of intellect and heart—a sum of expressed Christian virtues; and with all the human there is about the most of us, it is not surprising that this department of our ethics is not altogether perfect.

And it is because all ethics of any class or profession presupposes this basis, and yet by reason of the imperfection of individuals as to right feeling or right reasoning or right modes for expression, fails as to this substratum, that every ethical question, besides its special difficulties, is often involved and obscured by fundamental embarrassments.

It is in vain to attempt to elaborate a code of ethics to be subscribed to by a physician, until he has adopted the code of ethics which belongs to him as a man.

No code of professional ethics is ever to lead us to lose sight of this, or to regard it as in any way superseded, compromised or altered. It is because all true codes of medical ethics are intended in their practice to pay full regard to this first code, and really to constitute its application to details that they are to be defended and obeyed as not arbitrary or conventional but essential; as part and parcel of the character and propriety of man in contact with man.

Our design, therefore, in these remarks, is to show what practices of professional ethics is in accord with, and gives expression to, this former definition.

In our professional relations to each other, the common consent of the profession has decided, in accord with the general law of ethics, that first of all it is due to each other that our professional status be known. Hence, in settling in a place, we call upon the regular established physicians, acquaint them with our credentials, and inform them of our intention as to settlement. In a city where it is impracticable to call on all, the same result is accomplished by calling on some one member of the District Society, or acquainting him with our intent, and by early presenting to the local Society credentials for membership. This precisely corresponds with letters of introduction as used by us in entering a new community, and is a part of that right which our profession has to know something of our claims to recognition. It is the corresponding duty of physicians already resident, to receive such a one in the spirit of a true courtesy, to the extent of recognizing him as an authenticated member of the profession, and of extending to him the common civilities of a gentleman.

As one engaged in the same business with us, we are not under any obligation in any way further to aid in introduction, but nevertheless are to show that generosity of rivalry which excludes any means of interference which would be unlawful in other vocations. We do not prescribe for a patient under the care of another practitioner, for the same reason that we would not take a case in law while under the charge of an authorized attorney, or a school while another principal was over it, or act as the official attendant of any person while the real attendant was still in employ. In these and many like cases our conduct is ethical in its broad sense, and not a specialty; and we act as we do, because we owe allegiance to the

great common law of deportment—of ethics which has its foundation in morality and high-toned character.

If we keep this class of cases distinct from those that are special, as applicable to any guild or profession, we shall find that many questions are readily decided outside our particular code, or if left undecided or disregarded it is not because of imperfection in the professional code, but for want of subservience to the general code of a real gentility. So long as men are governed by passion or selfishness there will be breaches of this kind of ethics, which are really out of the domain of any special ethical legislation.

There are just now, perhaps, four special questions of ethics involved in our profession, about which it is important to have definite views, or which are at least worthy of careful discussion :

I. What is the duty of regular physicians as to medical societies.

II. What is our duty in reference to practitioners of different faith and practice from us ?

III. What are our privileges as to advertising, or in general as to the management of our profession as a business ?

IV. What is our right relation to patent medicines or instruments, and to dealers in or venders of the same ?

We believe, first, then, that it is due from all members of the regular profession, that they should be members of some District or County Society, and have thereby relation to the medical men of the section in which they reside. This kind of consideration seems due from one physician to another, because experience has shown that association has a tendency to maintain the morale and courtesy of members of any profession. Just so soon as you see the standard of any science



elevating itself, or of any art, we see a tendency in its votaries to segregate, not only for discussion and comparison of investigation and experience, but for acquaintance ; and we maintain that in all healthful medical advance the same feeling is apparent. That graduate of regular medicine, who is willing to stand aloof from societies in which his brethren are mingling, in almost all cases is not only withholding his influence from an approved method of advancing our calling, but is lowering his own standard, is encouraging personal exclusiveness, and fostering a spirit inimical to the welfare of the body of medicine and its ethical rules. We are aware that local causes may exist why some particular neighborhood society may not seem promotive of good feeling or to awaken scientific interest, but more frequently we have found jealousies and petty rivalries to diminish with such association ; and now and then a virulent exception by no means nullifies the statement. We would give to practitioners such liberty of choice as that they may belong to the County Society of their own county or of any adjacent county, but we do believe that the ethics of our profession is greatly conserved by such association ; that those standing aloof are not as ethical as they should be ; and that we should all encourage a full membership of these societies in all parts of our State. When questions of difference arise, they are to be met with that courtesy of debate and forbearance of feeling which belong to us as gentlemen and as physicians, and when the misunderstanding seems flagrant, it should calmly be referred, as suggested in the code of the American Medical Association, to a kind of jury of our peers without the arena of excitement, and their conclusion should not only have the force of an opinion, but of an ethical decision.

SECOND. As regards our duty to practitioners of a different faith and practice. The question in some regards seems to

decide itself. Those who come under the class of homœopaths, hydropaths, electricians, eclecticists, et cetera, claim to hold different views from us, both as to the theory and practice of medicine. They are of different faith and different practice. If the design of a consultation was to ventilate our medical views for the benefit of each other, then, on the ground that inquiry and free discussion tends to elicit truth, a defence for this kind of conference might be framed. But there are plenty of other opportunities for this, and of all places the ante-chamber to a sick man's room is the unfittest for such discussions. In order to give the special patient any benefit from a consultation, there must be some agreement as to premises, as to the bases for reason, and some conformity as to belief, and then the comparison of judgments may be of advantage; but where persons recognize themselves as disagreeing in fundamentals, both as to the significance of symptoms and the relations of remedies, there is no basis for conference beneficial to the case in hand. And hence consultation in such circumstances is a disregard akin to a disregard of the laws of primary belief: is a fraud upon the patient, even if in his ignorance he permits it, for his design is such conference as will direct treatment, and not merely to bring together things organically incompatible, in order to detect the actions and reactions.

Yet because some society, like that of Massachusetts, attempts to exclude from its communion those who thus affiliate, it is called exclusive or bigoted. As well might you talk of bigotry, prejudice and exclusiveness when a Protestant does not invite a Mohammedan to his pulpit, or exchange with a Rabbi alternate Sabbaths. It is not because they may not feel kindly toward each other personally or have some views in common, but the very doing of the thing is a letting down of principle by which both parties forget

self-respect, and, worse than all, forget that respect for beliefs, for convictions, which is at the foundation of right practice in medicine as well as in religion. When a system which has been elaborated through the centuries, and upon which science and art have combined with intellectual enthusiasm, and with the rigidest methods of investigation, is willing to indulge in wedlock with that which proclaims itself, and is diametrically opposed, be assured that true affection for our principles has degenerated into license, and bastards will be born. Call it bigotry, or prejudice, or exclusiveness, if you choose. So let it be. A man or a profession with a principle, tested both by reason and experience, is not worth a straw if not exclusive when a system comes along, which, claiming to be utterly different, is willing to be co-partner. Error always accuses truth of being exclusive in a bigoted sense, when it is exclusive only in a nobility sense, because it is the legitimate business of truth to exclude error.

Even the Homœopath, if he is sincere and believes the truth of his system, ought to decline a consultation as both irrational and impracticable, as ethically because morally impossible, and not doing it is a tacit confession that his doctrine and practice, although so different from orthodoxy, are not sufficiently established to stand upon the claimed difference.

It is not wonderful that the laity should not see the incongruity, for they have not studied the science, and have seen only enough of practice to arrive at conclusion from a few cases; and it is not wonderful that the physician, who has not a well-grounded faith in his profession, should be willing to confer with some dogma or new creed. But for one who is convinced that the science and art of treating disease is represented by the medical profession known as regular, to affiliate with those who utterly ignore its status, is demoralizing in the extreme, and ethically wrong, because unprin-

cipled. It is a violation of the code of ethics of our profession, because it is a violation of that law of morality which requires that as intelligent and honest supporters of a vital system, we should not hold communion with another system inconsistent therewith. So only can right distinction be maintained; and such ethics is not a law of arbitrary etiquette or an outburst of uncharitableness. It is not the question whether Mr. A. of some other "pathy" seems like a nice man, or has some correct views, or whether Mr. B. is willing that you should consult with him over his case, but the true question is, whether it is right to break the law of ethics, which is a law of morals, of principle, of character, viz., that we cannot harmlessly or innocently put true doctrines in wedlock with false ones. The offense is not merely a technical wrench of an exterior formality, but a material, fundamental removal of that line of demarcation which, so far from being imaginary, even so much as an equator is a true segment of that broad cable-ropé which forms the boundary between truth and error, between shipboard and sea-billow, and which, when let down, lets many a well-meaning soul walk overboard.

We do not say that a case may not arise where the emergencies of a particular accident do not justify a temporary waiving of this ethical law, for all laws have rare individual exceptions, but we never should let a particular case weigh down a general principle, or forget that charity for all humanity requires punctilious regard to an ethical law, and we should ever use the exception as an occasion to vindicate the law, and justify ourselves in the seeming modification only by the most apparent reasons. In fact, in such a case, it is the law itself that justifies the exception.

The duty is clearer in reference to our profession than most others, because not only are the views of these other schools

of practitioners opposite but subversive, and they practically make their notoriety by affecting a despising abhorrence of the old practice, as they call it, with its fearful doses and antiquated notions. Practically, this is the stock in trade of empirics, and is so characteristic as to be the common property of those who charge upon the people with the grape-shot of infinitesimal specifics, the sparks of full batteries, or of any of those who push some one remedy to panacean extremes.

We are aware that now and then some man of real medical worth, whose heart is full of kindliness and whose mind is more impressible by a case in hand than by the deep rhythm of a great principle, yields and justifies himself by circumstances. Very rarely is he right; often deceived in himself, his own interests were the real cause, or his kindness gets the better of his judgment, and yielding to the pathos of a touching case in imaginary individual duty, he slaughters a principle by which the material interests of society are jeopardized.

Never let the public accuse the doctor who will not professionally unite with those whom he regards as errorists, of being narrow-minded.

It is broad-mindedness and moral heroism and heart-truthfulness, all, when a man resists temptation to such a course, and sustains the public interest and the ethical law, often to his own known disadvantage at the time. He is vindicating the correctness of a system which, with its advances in the last ten years, has made a broad stretch between science and error, and shown that philanthropy requires of us that we should protect the invalid from falsities he cannot test, and blandishments he does not understand.

The circumstance sometimes occurs in cities that a physician is placed on a board of health in connection with a physician of another practice. In general he occupies his position not as a physician, but as a citizen, supposed to be more intelli-



gent in sanitary matters than most, just as a druggist might be. We regard this as entirely a different question from that of consultation in which the relation is purely professional, and different from a position on a hospital staff where again the duty is purely medical. In the first case, the action depends very much upon how far the association is made professional, and upon contingencies which may arise. Whenever it appears that the ethical law is compromised, the association cannot be vindicated; but generally the decision must be left to the private judgment of the individual; and it is not a case for society action.

We next inquire what are the privileges of the physician in the management of his profession as a business? It is to be remarked that medicine must be recognized not only as a science and an art, but as a vocation, and as such it has its laws relative to its adaptation to society as a means of livelihood. It may seem very dignified to wrap the drapery of our high profession all about us and lie down to pleasant dreams, but this does not pay baker or tailor, or make provision for family support. Business success is a part of professional success, and it is a pressing question how this business shall secure a livelihood. It is all the more complicated because we live in an age quite different from that of the average successful men of fifty years ago. Before shopkeepers advertised, and while all business men waited for customers with dignified ease, it was not at all difficult for the doctor to put up just one sign, and expect the public to deem it a great favor that they could be allowed to enter his office and make known their ills. Now, the merchant prince has his runners, the machinist his patents, the artist his exhibitions, the author and the lawyer their legal and artful methods of making trade, and even many a minister somewhat of artificial method for making impressions: and in these days

when of all other callings ours is easiest counterfeited and is hardest beset by rival pufferies, it becomes a very important question what the doctor is to do. Shall he alone of all mortals discard present methods of business, and fall back on antiquated customs? Shall he, if he has concentrated his time on some specialty, instead of spreading himself very thin over the whole continent of medicine, be denounced because he puts up a sign announcing himself as aurist, or surgeon, or orthopædist? If he advertises his preparation for business, shall he for that be called a charlatan, or be accused of unprofessional conduct, when he really has the merit he claims?

Questions such as these are practical, and must be met with the great law of ethics in hand, and be answered in strict subservience thereto, and not in stilted adaptation to artificial formulas.

We confess to the view that in these matters there has been the squeamishness of a false modesty in the profession, and we regard some of the rules insisted upon as purely arbitrary and technical, while others, which are merely questions of good taste, or for private judgment, are too often claimed to be such breaches of ethics as to be subjects for discipline. We have never seen a reason why a physician, settling in a place, should not issue a modest card, or circular, or newspaper notice, stating his time and place of graduation, and, if he choose, giving the names of two or three physicians to whom he may refer. Such a course is neither boastful nor intrusive; and so far from being an injury, would help to draw a real line between those who come without right qualification and those duly authenticated, and the public would learn better to distinguish between regular and irregular practitioners. This by no means defends any immodest introduction, any more than the usual letter of introduction which one seeks and uses is an excuse for a flaming hand-bill or a brazen puff.

Where, again, a physician chooses some specific branch of the profession, and concentrates himself upon it so as conscientiously to perfect himself in it beyond what is possible to the profession in general, we see nothing the least immodest in a sign announcement of that specialty or a simple advertisement of the same. The matter may be discussed as a question of taste as to the extent to which it is carried, and he may push it too far, just as in any business, energy may become intrusive, and self-announcement transcend the limits of decorum. What we claim is, that the thing itself, within proper limits, is not unethical in the real sense or in regard to the organic law of propriety. It is far less questionable than certain occult arts and insinuating practices which obtain too much among certain smooth regulars, and from which the profession suffers somewhat. We recognize the fact that the limits allowed to a profession are naturally less broad than those accorded to a mere trade ; but we should be careful not to contend for laws which neither the law of ethics or the good sense of society will sustain, or to make that a disciplinary offence which is merely an exercise of fair liberty. It is to the advantage of every profession scientifically that it be sustained pecuniarily, and all legitimate and ethical means should be available to make it as a business successful over all rivalries.

In reference to patents and patent medicines, and to dealers in and venders of the same, what does a proper ethical code require? Here again we have to say, that where an inventor invents an apparatus which proves to be new in principle, or in the application of a principle, we see no reason why a benefit therefrom should not accrue to the inventor. This does not increase unduly its price or make it exclusive ; but rather governments have found it to public advantage as well as private right, thus to protect the inventor, and the ultimate



effect is to distinguish between shams and real benefits. A prominent New York physician recently said to me, that a speculum invented by him, and fully appreciated by those who used it in its right forms, had been so utterly misshapen by divers instrument makers as to be often a mortification to him, and yet for fear of adverse criticisms he had not patented it.

In reference to patent medicines the case is wholly different. The vender of a patent instrument does not in any wise ignore the necessity of medical skill, for a patent does not put it any more into the hands of the laity or make the thing a secret. But when a medicine is patented, it is assumed that the patient himself is capable of treatment. The diagnosis and prognosis are alike on the bottle, and it wholly ignores that careful training and personal examination which alone can adapt treatment to the particular case. A patent medicine is in its very nature subversive of the theory of medical science and the design of medical art, and as such is not a question of taste but an organic breach of ethical law. When a physician patents an instrument he merely offers it to the profession as a tool to be tried by them, without secrets, but only protected as to its authorship; but when a man puts up a patent medicine, it is as a secret compound to be used by persons without medical advice. It therefore attacks an ethical law of the practice which recognizes skill in administration as well as skill in combination, and that disease is not to be treated by mere name or resemblance, but by an analysis of each case. It assumes the possibility of combining a medicine suitable to cases in which there has been no skillful diagnosis of the disease. All this is made more flagrant by the fact that the mode of vending has so much in it of the nature of swindle, that the advertisements are specimens of the extremest burlesque on temperate and appreciative com-

mendation, and that examination into the past history of such like medicines has shown them either worthless or not of value adequate to their cost.

The manufacture and vending of them partakes so much of the nature of illegitimate trade that their authors either use feigned names or suffer in public opinion by the association. And to us it seems one of the most prevalent and questionable breaches of ethics that we give special patronage to a class of men who are as diligent in selling all sorts of patent medicines as they are in putting up our prescriptions, and even wrap up our very bottles and boxes in some patent puff. Worse still, we enrol as members of our medical societies, physicians engaged in this very business. They are, many of them, noble men, who would not intentionally do wrong, and I am far from looking down upon them, for I consider we are *particeps criminis*, almost to the equality of principals, or at least accessory before the act, and so ethically fully as responsible as they. And to my mind this is the greatest ethical degradation which we are guilty of in this day, and more is done for patent medicines, and so for irregular practice, by physicians and druggists than by all others combined.

It has long been clear to my mind that our profession should distinctly throw its influence with such druggists as throw their influence against the patent medicine system, and that we should recognize a dividing line between pharmacy and that mixed business of drugs, patent medicine agents and nostrum advertisers, just as we do between regular physicians and the great army of prescribers. If physicians in our larger cities would combine to this end, they would initiate an ethical and moral reform which would greatly elevate our profession and still more grandly subserve the public health. One feels abashed in presenting a bold front as a model of ethics, when

the men to whom he is chief patron in medicine makes his largest profits on those secret compounds whose signs are most prominent in his windows, and the use of which ignores the practice of our art.

We have advanced these views on ethics because, from what has occurred in the American Medical Association and in some State Societies, it is evident that we are needing to define or to discuss the true ethics of the profession, and we may do this all the more readily because the progress of our profession in the last few years makes all the more apparent to us the boundaries between empiricism and orthodoxy, and renders practicable that self-assertion which is not bigotry, but which is ethically because morally due in order that the false and illogical may not get any wardrobe from us in order to put in the appearance of decorous regularity.

We have not desired to speak in any declarative way, nor with tenaciousness of preconceived opinion, but rather to present such views as seem to us tenable. We believe, at least, that more thorough examination of the subject from the stand-points named will be promotive of the true etiquette of our profession, and that by seeking more definiteness and uniformity as to our ethical views, we shall benefit our calling not only in *esprit de corps*, but in all that pertains to its material advancement and practical usefulness; for ethics is not a dress-parade question, but has integral relations both to the welfare of the profession and the common interests of the public whom we serve. We are ethical because we are on duty and on the march after disease, and need the drill and decorum of a well-equipped corps, and need that stragglers and deserters be kept outside the line in order that we may do good effective service for the public weal.









